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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/637,152	08/08/2003	Richard L. Sandt	AVERP2822USA	3421
7590	07/26/2005		EXAMINER	KRUER, KEVIN R
Neil A. DuChez Renner, Otto, Boisselle & Sklar, LLP Nineteenth Floor 1621 Euclid Avenue Cleveland, OH 44115-2191			ART UNIT	PAPER NUMBER
			1773	
DATE MAILED: 07/26/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/637,152	SANDT ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Kevin R. Kruer	1773

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 28 April 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-8 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 8/8/2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 4/28/2005.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

***Information Disclosure Statement***

1. The information disclosure statement filed 4/28/2005 has been fully considered.

An initialed copy of said PTO-1449 is enclosed herein.

***Claim Rejections - 35 USC § 103***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. The rejection of claims 1-3 and 5-7 under 35 U.S.C. 103(a) as being unpatentable over Rea et al (US 6,720,050) has been overcome by argument. Rea does not teach a heat activatable layer comprising a member of the claimed Markush group.
4. The rejection of claims 1-3 and 5-8 under 35 U.S.C. 103(a) as being unpatentable over Rea et al (US 6,720,050) in view of Miekka et al (US 6,540,865) has been overcome by argument. Rea does not teach a heat activatable layer comprising a member of the claimed Markush group.
5. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rea et al (US 6,720,050) in view of Miekka et al (US 6,540,865) and Creegan et al (US 3,914,484) for reasons of record.

Rea teaches a laminate label adapted for use on plastic containers comprising a transparent or translucent protective polymeric layer bound to a face stock by a radiation-cured adhesive composition (abstract). The radiation-cured adhesive is herein relied upon to read on the claimed "laminating adhesive." The protective polymeric

layer is herein understood to read on the claimed "carrier layer." The face stock herein is understood to read on the claimed "facestock" and may comprise a single layer film such as polyvinyl chloride (col 7, lines 1+) or a multi-layer film (see US 5,830, 571 incorporated by reference). A pressure sensitive adhesive is applied to the facestock (see Fig 1). The pressure sensitive adhesive may comprise any suitable pressure sensitive adhesive (col 7, lines 30+).

Rea does not teach that the laminate comprises a detack layer applied to the pressure sensitive adhesive. However, Miekka teaches a pressure sensitive adhesive with a detackified surface (col 1, lines 13+). Miekka teaches that it is well known to use release sheets with pressure sensitive adhesives that are subsequently applied to facestock for use as labels (see background of the invention). The laminate is stored as a roll (col 1, lines 57+). Miekka teaches that a detack layer may be applied to the PSA in order to detackify the underlying PSA thus forming a non-blocking laminate that allows for subsequent handling or treatment of the laminate (col 7, lines 50+). Furthermore, the detack layer may be printed (col 32, lines 14+). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply a printed detack layer to the pressure sensitive layer taught in Rea. The motivation for doing so would have been to allow for subsequent handling or treatment of the laminate without blocking.

Rea teaches that the pressure sensitive adhesive may comprise any suitable pressure sensitive adhesive, but does not teach that said adhesive may be polyurethane based. However, Creegan teaches a pressure sensitive adhesive label

sheet stock (abstract) wherein the adhesive is a polyurethane elastomer (abstract). Said adhesive has a relatively long pot life, is temperature insensitive, has a viscosity which will permit it to be handled with convention coating techniques, does not discolor and has good adhesive qualities (col 1, lines 62+). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the polyurethane adhesive taught in Creegan as the PSA taught in Rea. The motivation for doing so would have been that said adhesive has a relatively long pot life, is temperature insensitive, has a viscosity which will permit it to be handled with convention coating techniques, does not discolor and has good adhesive qualities.

With regard to claim 6, the examiner takes the position that the polyurethane PSA reads on the claimed laminating adhesive, the facestock reads on the claimed facestock, the detack layer reads on the claimed "carrier layer," and the curable adhesive reads on the claimed "heat activatable layer." Said adhesive may comprise a copolymer of an acrylate and a non-carboxylic acid functional monomer (col 3, lines 1+), such as ethylene.

### ***Response to Arguments***

Applicant's arguments filed April 28, 2005 have been fully considered but they are not persuasive.

Applicant traverses the rejection of claims under the teaching of Rea on the grounds that the PSA taught by Rea does not read on the claimed "heat activatable layer." According to applicant, said PSA is distinguished from the claimed heat activatable layer because it is tacky to the touch at room temperature and is activatable

by the application of pressure. On the other hand, the heat activatable layer is not tacky to the touch at room temperature, and becomes activated with the application of heat. The examiner respectfully disagrees. There is nothing on the record to suggest the "heat activatable layer" is limited to compositions that are not tacky to the touch at room temperature. To the contrary, the only disclosure with regard to the limits of the term "heat activatable layer" is on page 5 of the specification, wherein various compositions that may be utilized as said heat activatable layer are listed. Included on said list is polyurethane and acrylic polymers. The examiner notes the polymers relied upon to read on said heat activatable layer comprise polyurethane and acrylic polymers. Since the adhesive layer of the prior art is compositionally identical to the polymers taught to be useful as the "heat activatable layer," the rejection is maintained.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin R. Kruer whose telephone number is 571-272-1510. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney can be reached on 571-272-1284. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kevin R. Kruer  
Patent Examiner-Art Unit 1773